

DONNA L. COLLETT and
WILLIAM A. COLLETT,

V.

LIFE INSURANCE COMPANY OF
NORTH AMERICA.

Defendant.

[illegible]

3:12-CV-585
(VARLAN/SHIRLEY)

This case is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and Standing Order 13-02. Before the Court is the Plaintiffs' Motion to Amend Complaint [Doc. 23], filed on July 17, 2013. The motion states that the original Complaint generally alleged that the ERISA policy granted discretionary authority to the Defendant. The Plaintiffs state that if such allegations were correct, the Court is required to apply an arbitrary and capricious analysis. The Plaintiffs contend that further review of the ERISA policy indicates that no such discretion was granted. The Plaintiffs have attached a portion of the proposed First Amended Complaint. [Doc. 23-1].

The Plaintiffs have failed to abide by Local Rule 15.1, which provides:

A party who moves to amend a pleading shall attach a copy of the proposed amended pleading to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, shall, except by leave of Court, reproduce the entire pleading as amended and may not incorporate any prior pleading by reference. A failure to comply with this rule may be grounds for denial of the motion.

The proposed First Amended Complaint is only five pages and begins with paragraph 54. As mentioned above, a party may not incorporate any prior pleading by reference. E.D.T.N. LR 15.1. Nevertheless, because the Defendant has indicated to the Court that it will not file a response to the instant motion, and Federal Rule of Civil Procedure 15(a)(2) states that a court should freely give leave to amend when justice so requires, the Court **GRANTS** the Plaintiffs' Motion to Amend Complaint [**Doc. 23**]. The Court **DIRECTS** the Plaintiffs to file the First Amended Complaint in accordance with Local Rule 15.1.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge